

AMENDED IN ASSEMBLY APRIL 26, 2006

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CALIFORNIA LEGISLATURE—2005–06 REGULAR SESSION

ASSEMBLY BILL

No. 1986

Introduced by Assembly Member De La Torre

February 9, 2006

An act to add Section ~~89913 to the Education Code, relating to 89911 to the Education Code, and to amend Sections 10701 and 10704 of, and to add Section 10706.5 to, the Public Contract Code, relating to public contracts.~~

LEGISLATIVE COUNSEL'S DIGEST

AB 1986, as amended, De La Torre. *Public contracts: California State University: auxiliary—organization contracts: qualified project organizations.*

(1) Existing law establishes the California State University under the administration of the Trustees of the California State University. Existing law authorizes the establishment of auxiliary organizations, as defined, of the university for various purposes consistent with the mission of the university. *The existing California State University Contract Law sets forth a process through which contracts for projects, as defined, that are entered into with respect to the California State University may be competitively bid, entered into, and executed. A provision of the law requires that a project be under the sole and direct control of the trustees pursuant to the administrative authority granted to them by existing law. A provision of the law authorizes the trustees and the Department of General Services to enter into an agreement under which the department will*

carry out any of the functions of the trustees under the law, upon terms that are mutually agreed upon. A provision of the law requires that any subcontractor or agent, or employee of any contractor or subcontractor, who has knowledge of any work done in violation of any contract under the California State University Contract Law, and does not immediately notify the trustees or the inspector or resident engineer upon the project of the violation, is guilty of a felony.

This bill would require that any construction project on a campus of the California State University that is performed by an auxiliary organization to use competitive bidding in awarding a contract for a qualified project, as defined of the California State University and funded in whole or in part by public funds is subject to the California State University Contract Law, and would deem that construction project to be under the sole and direct control of the trustees for the purposes of the law. The bill would authorize the trustees to enter into an agreement under which the auxiliary organization may carry out any of the functions of the trustees under the law, upon terms that are mutually agreed upon. Because the bill would extend the scope of the California State University Contract Law, the bill would impose a state-mandated local program by creating a new crime.

(2) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

*Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no-yes.*

The people of the State of California do enact as follows:

- 1 *SECTION 1. Section 89911 is added to the Education Code,*
- 2 *to read:*
- 3 *89911. Any construction project on a campus of the*
- 4 *California State University that is performed pursuant to a*
- 5 *contract entered into or awarded by an auxiliary organization*
- 6 *and funded in whole or in part by public funds is subject to the*
- 7 *California State University Contract Law (Chapter 2.5*
- 8 *(commencing with Section 10700) of Part 2 of Division 2 of the*
- 9 *Public Contract Code).*

1 *SEC. 2. Section 10701 of the Public Contract Code is*
2 *amended to read:*

3 10701. As used in this chapter:

4 (a) “Project” includes the erection, construction, alteration,
5 painting, repair, or improvement of any state structure, building,
6 road, or other state improvement of any kind. *“Project” includes*
7 *a project performed on a campus of the California State*
8 *University pursuant to a contract entered into or awarded by an*
9 *auxiliary organization, as defined in Section 89901 of the*
10 *Education Code, and funded in whole or in part by public funds.*

11 (b) “Service contract” means any contract for services in
12 connection with a project other than a project contract, and
13 includes, but is not limited to, contracts for architectural,
14 engineering, planning, testing, general studies, or feasibility
15 services.

16 (c) “Trustees” means the trustees of the California State
17 University and their designees.

18 *SEC. 3. Section 10704 of the Public Contract Code is*
19 *amended to read:*

20 10704. The project shall be under the sole and direct control
21 of the trustees, pursuant to the powers and responsibilities
22 invested in them by Chapter 8 (commencing with Section 66600)
23 of Part 40 of Division 5 of Title 3 of the Education Code. *For the*
24 *purposes of this chapter, a project performed on a campus of the*
25 *California State University pursuant to a contract entered into or*
26 *awarded by an auxiliary organization, as defined in Section*
27 *89901 of the Education Code, and funded in whole or in part by*
28 *public funds, shall be deemed to be under the sole and direct*
29 *control of the trustees.*

30 *SEC. 4. Section 10706.5 is added to the Public Contract*
31 *Code, to read:*

32 10706.5. *The trustees may enter into an agreement with an*
33 *auxiliary organization, as defined in Section 89901 of the*
34 *Education Code, under which the auxiliary organization may*
35 *carry out any of the functions of the trustees under this chapter,*
36 *upon terms that are mutually agreed upon.*

37 *SEC. 5. No reimbursement is required by this act pursuant to*
38 *Section 6 of Article XIII B of the California Constitution because*
39 *the only costs that may be incurred by a local agency or school*
40 *district will be incurred because this act creates a new crime or*

1 *infraction, eliminates a crime or infraction, or changes the*
2 *penalty for a crime or infraction, within the meaning of Section*
3 *17556 of the Government Code, or changes the definition of a*
4 *crime within the meaning of Section 6 of Article XIII B of the*
5 *California Constitution.*

6 ~~SECTION 1. Section 89913 is added to the Education Code,~~
7 ~~to read:~~

8 ~~89913. — (a) Notwithstanding any other law, an auxiliary~~
9 ~~organization, as defined in Section 89901, shall use competitive~~
10 ~~bidding in awarding a contract for a qualified project.~~

11 ~~(b) For purposes of this section, “qualified project” means a~~
12 ~~construction project on a campus of the California State~~
13 ~~University that is funded in whole or in part by public funds and~~
14 ~~the estimated cost of the project exceeds five thousand dollars~~
15 ~~(\$5,000).~~